

LAKEVIEW ORDINANCES

ORDINANCE NO. 749

AN ORDINANCE PROHIBITING THE BURNING OF WASTE; RESTRICTING OPEN BURNING AND REPEALING ORDINANCE NO. 581.

WHEREAS, the health, safety and welfare of the citizens of the Town of Lakeview are adversely affected by the deterioration of air quality within the town limits; and

WHEREAS, unrestricted open burning and the burning of waste are injurious to public health and are a primary source of causing the deteriorated air quality; and

WHEREAS, an open burning and waste burning curtailment ordinance is essential in complying with the provisions of the federal Clean Air Act and to assure healthful air quality; now, therefore

THE TOWN OF LAKEVIEW ORDAINS AS FOLLOWS:

SECTION 1. DEFINITIONS: As used in this ordinance, the following words, except, where the context clearly indicates otherwise, mean:

(a) Open Burning: Burning in burn barrels or incinerators, open outdoor fires and any other burning where combustion air is not effectively controlled and combustion products are not effectively vented through a stack or chimney.

(b) Permit: Written evidence indicating that an open burning activity, which would otherwise be prohibited by this ordinance, is permissible under certain circumstances and which is obtainable from the Lakeview Fire Department.

(c) Person: Any individual, partnership, corporation, company or other association.

(d) Solid Fuel Burning Device: A device designed for solid fuel combustion so that usable heat is derived for the interior of a residence and includes, without limitation, solid fuel burning stoves, fireplaces or woodstoves of any nature, combination fuel furnaces or boilers used for space heating which can burn solid fuel. Solid Fuel Burning Devices do not include barbecue devices, natural gas fire and artificial fireplace logs or pellet stoves.

(e) Waste: Wet or dry garbage, plastic, wire insulation, automobile parts, asphalt, petroleum products, petroleum treated materials, rubber products, animal remains, or animal or vegetable matter resulting from the preparation, cooking or service of food, disposable diapers, styrofoam, chemically treated lumber, or any other material, including commercial and industrial waste, which normally emits dense smoke or noxious odors.

(f) Green Day: An Air Quality Advisory provided by the Town of Lakeview which forecasts acceptable air quality for the following 24 hour period.

(g) Yellow Day: An Air Quality Advisory provided by the Town of Lakeview which forecasts increased PM10 concentrations over the following 24 hour period. A Yellow Day forecast signifies that average PM10 concentrations are expected to reach levels of health concern, but which are not expected to approach the 24 hour national ambient air quality particulate health standard of 150 ug/m3.

(h) Red Day: An Air Quality Advisory provided by the Town of Lakeview which forecasts average PM10 concentrations at levels which are at risk of reaching and/or exceeding the 24 hour national ambient air quality particulate health standard of 150-ug/m3.

SECTION 2. BURNING OF WASTE: The burning of waste at any time, whether by open burning or in a solid fuel burning device, as defined herein, is prohibited within the Town of Lakeview.

SECTION 3. RESTRICTIONS ON OPEN BURNING: All open burning is prohibited within the Town of Lakeview unless a permit for the same has been obtained.

SECTION 4. OPEN BURNING PERMITS: Open burning, which would otherwise be prohibited by the terms of this ordinance, may be permitted if a permit for the same is obtained from the Lakeview Fire Department. An open burning permit shall only be issued during a Green Advisory Period. Permits shall only be used on the day that it is issued and all open burning shall be completed prior to sundown. The Fire Chief of the Town of Lakeview is hereby authorized to issue such permits to residents of the Town of Lakeview subject to such reasonable terms and conditions as the Fire Chief, in his sole discretion, shall deem advisable for the protection of the residents of the Town of Lakeview. The terms and conditions of the open burning permit shall be specifically and expressly set forth on the permit. The issuance of a permit imposes no liability on the Town of Lakeview for any damage caused by open burning and the sole risk thereof lies with the person

obtaining the permit.

SECTION 5. ABATEMENT, ENFORCEMENT AND PENALTIES: Any violation of this ordinance or non-compliance with any of the provisions hereof shall be subject to legal proceedings to abate or enjoin such violation or non-compliance. In addition to abatement or injunctive proceedings, the following penalties may be imposed for violations or non-compliance:

(a) First offense violators of this ordinance shall receive a warning. The Town of Lakeview Air Quality Office shall notify the violator of their non-compliance by registered mail, which notice shall contain the penalty schedule.

(b) Second offense violators of this ordinance shall be punishable by a fine not to exceed \$25.00.

(c) Third offense violators of this ordinance shall be punishable by a fine not to exceed \$100.00.

(d) Subsequent violations shall be punishable by a maximum fine not to exceed \$250.00 per occurrence.

SECTION 6. SEVERABILITY: If any section, subsection, sentence or clause, or any portion of this Ordinance is, for any reason, held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portion thereof.

This ordinance and its purposes being necessary for the preservation of public peace, health and safety of the Town of Lakeview and its inhabitants, an emergency is hereby declared to exist and this ordinance shall be in full force and effect after

its passage by the Lakeview Town Council.

No council member present requested that this ordinance be read in full so the same was read by title only and therefore passed unanimously by the Council of the Town of Lakeview and adopted on February 28, 1995.

  
Sherry Landers, Recorder/Custodian

